

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

NAGASAMUDRA S. ASHOK, M.D.

Case No. 800-2015-017489

**Physician's and Surgeon's
Certificate No. A41589**

Respondent

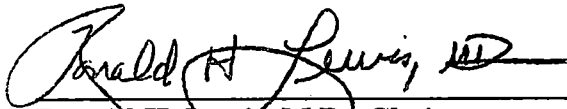
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 27, 2019.

IT IS SO ORDERED: May 28, 2019.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6538
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 NAGASAMUDRA S. ASHOK, M.D.

14 1648 Tyler Avenue, Suite B
15 South El Monte, California 91733

16 Physician's and Surgeon's Certificate A 41589,
17 Respondent.

Case No. 800-2015-017489

OAH No. 2018110700

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Vladimir
25 Shalkevich, Deputy Attorney General.

26 2. Respondent Nagasamudra S. Ashok, M.D. (Respondent) is represented in this
27 proceeding by attorney Henry R. Fenton, whose address is 1990 South Bundy Drive, Suite 777,
28 Los Angeles, California 90025.

3. On March 25, 1985, the Board issued Physician's and Surgeon's Certificate No. A 41589 to Nagasamudra S. Ashok, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-017489, and will expire on June 30, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-017489 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 7, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-017489 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-017489. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-017489, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2015-017489 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California

12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 41589 issued to Respondent Nagasamudra S. Ashok, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing

1 Medical Education (CME) requirements for renewal of licensure.

2 A prescribing practices course taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the course would have
5 been approved by the Board or its designee had the course been taken after the effective date of
6 this Decision.

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee not later than 15 calendar days after successfully completing the course, or not later than
9 15 calendar days after the effective date of the Decision, whichever is later.

10 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
11 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
12 advance by the Board or its designee. Respondent shall provide the approved course provider
13 with any information and documents that the approved course provider may deem pertinent.
14 Respondent shall participate in and successfully complete the classroom component of the course
15 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
16 complete any other component of the course within one (1) year of enrollment. The medical
17 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
18 Medical Education (CME) requirements for renewal of licensure.

19 A medical record keeping course taken after the acts that gave rise to the charges in the
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
21 or its designee, be accepted towards the fulfillment of this condition if the course would have
22 been approved by the Board or its designee had the course been taken after the effective date of
23 this Decision.

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the course, or not later than
26 15 calendar days after the effective date of the Decision, whichever is later.

27 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
28 the effective date of this Decision, Respondent shall enroll in a professionalism program, that

1 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
2 Respondent shall participate in and successfully complete that program. Respondent shall
3 provide any information and documents that the program may deem pertinent. Respondent shall
4 successfully complete the classroom component of the program not later than six (6) months after
5 Respondent's initial enrollment, and the longitudinal component of the program not later than the
6 time specified by the program, but no later than one (1) year after attending the classroom
7 component. The professionalism program shall be at Respondent's expense and shall be in
8 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

9 A professionalism program taken after the acts that gave rise to the charges in the
10 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
11 or its designee, be accepted towards the fulfillment of this condition if the program would have
12 been approved by the Board or its designee had the program been taken after the effective date of
13 this Decision.

14 Respondent shall submit a certification of successful completion to the Board or its
15 designee not later than 15 calendar days after successfully completing the program or not later
16 than 15 calendar days after the effective date of the Decision, whichever is later.

17 5. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
18 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
19 where: 1) Respondent merely shares office space with another physician but is not affiliated for
20 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
21 location.

22 If Respondent fails to establish a practice with another physician or secure employment in
23 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
24 Respondent shall receive a notification from the Board or its designee to cease the practice of
25 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
26 practice until an appropriate practice setting is established.

27 If, during the course of the probation, the Respondent's practice setting changes and the
28 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent

1 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
2 If Respondent fails to establish a practice with another physician or secure employment in an
3 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
4 shall receive a notification from the Board or its designee to cease the practice of medicine within
5 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
6 appropriate practice setting is established.

7 6. PAYMENT OF CIVIL PENALTY. Respondent shall pay to the Board a civil penalty
8 in the amount of \$10,000 pursuant to Business and Professions Code section 2225.5 within the
9 first year of probation. Such costs shall be payable to the Medical Board of California and are to
10 be paid regardless of whether the probation is tolled. Failure to pay such costs shall be considered
11 a violation of probation. Any and all requests for a payment plan shall be submitted in writing by
12 respondent to the Board or to the Board's designee. However, full payment of any and all costs
13 required by this condition must be received by the Board no later than one hundred and twenty
14 (120) days prior to the scheduled termination of probation. The filing of bankruptcy by
15 respondent shall not relieve respondent of the responsibility to repay this civil penalty.

16 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
17 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
18 Chief Executive Officer at every hospital where privileges or membership are extended to
19 Respondent, at any other facility where Respondent engages in the practice of medicine,
20 including all physician and locum tenens registries or other similar agencies, and to the Chief
21 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
22 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
23 calendar days.

24 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

25 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
26 governing the practice of medicine in California and remain in full compliance with any court
27 ordered criminal probation, payments, and other orders.

28 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations

1 under penalty of perjury on forms provided by the Board, stating whether there has been
2 compliance with all the conditions of probation.

3 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
4 of the preceding quarter.

5 10. GENERAL PROBATION REQUIREMENTS.

6 Compliance with Probation Unit

7 Respondent shall comply with the Board's probation unit.

8 Address Changes

9 Respondent shall, at all times, keep the Board informed of Respondent's business and
10 residence addresses, email address (if available), and telephone number. Changes of such
11 addresses shall be immediately communicated in writing to the Board or its designee. Under no
12 circumstances shall a post office box serve as an address of record, except as allowed by Business
13 and Professions Code section 2021(b).

14 Place of Practice

15 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
16 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
17 facility.

18 License Renewal

19 Respondent shall maintain a current and renewed California physician's and surgeon's
20 license.

21 Travel or Residence Outside California

22 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
23 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
24 (30) calendar days.

25 In the event Respondent should leave the State of California to reside or to practice,
26 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
27 departure and return.

28 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be

1 available in person upon request for interviews either at Respondent's place of business or at the
2 probation unit office, with or without prior notice throughout the term of probation.

3 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
4 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
5 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
6 defined as any period of time Respondent is not practicing medicine as defined in Business and
7 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
8 patient care, clinical activity or teaching, or other activity as approved by the Board. If
9 Respondent resides in California and is considered to be in non-practice, Respondent shall
10 comply with all terms and conditions of probation. All time spent in an intensive training
11 program which has been approved by the Board or its designee shall not be considered non-
12 practice and does not relieve Respondent from complying with all the terms and conditions of
13 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
14 on probation with the medical licensing authority of that state or jurisdiction shall not be
15 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
16 period of non-practice.

17 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
18 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
19 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
20 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
21 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

22 Respondent's period of non-practice while on probation shall not exceed two (2) years.

23 Periods of non-practice will not apply to the reduction of the probationary term.

24 Periods of non-practice for a Respondent residing outside of California will relieve
25 Respondent of the responsibility to comply with the probationary terms and conditions with the
26 exception of this condition and the following terms and conditions of probation: Obey All Laws;
27 General Probation Requirements; Quarterly Declarations.

28 13. COMPLETION OF PROBATION. Respondent shall comply with all financial

obligations (e.g., restitution, probation costs, civil penalty) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

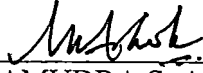
ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Henry R. Fenton. I understand the stipulation and the effect it will

1 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Medical Board of California.

4
5 DATED:


4/19/19


NAGASAMUDRA S. ASHOK, M.D.
Respondent

7 I have read and fully discussed with Respondent NAGASAMUDRA S. ASHOK, M.D. the
8 terms and conditions and other matters contained in the above Stipulated Settlement and
9 Disciplinary Order. I approve its form and content.

10 DATED:

4-19-2019


HENRY R. FENTON
Attorney for Respondent

12
13 ENDORSEMENT

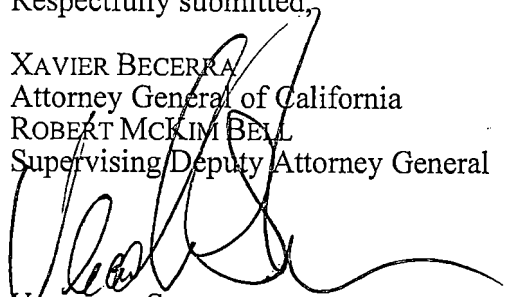
14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
15 submitted for consideration by the Medical Board of California.

16
17 Dated:

4/19/2019

Respectfully submitted,

18 XAVIER BECERRA
Attorney General of California
19 ROBERT MCKIM BELL
Supervising Deputy Attorney General

20 
21 VLADIMIR SHALKEVICH
22 Deputy Attorney General
23 Attorneys for Complainant

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25
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27 53356275.docx
28

Exhibit A

Accusation No. 800-2015-017489

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6538
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 6, 2018
BY R. Voong ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2015-017489

13 **Nagasamudra S. Ashok, M.D.**
14 **1648 Tyler Avenue, Suite B**
15 **South El Monte, CA 91733**

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 41589,**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about March 25, 1985, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 41589 to Nagasamudra S. Ashok, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
26 and will expire on June 30, 2020, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2225.5 of the Code states, in pertinent part:

“(a) (1) A licensee who fails or refuses to comply with a request for the certified medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents

1 have not been produced after the 15th day, up to ten thousand dollars (\$10,000), unless the
2 licensee is unable to provide the documents within this time period for good cause....”

3 “(f) For purposes of this section, “certified medical records” means a copy of the patient’s
4 medical records authenticated by the licensee or health care facility, as appropriate, on a form
5 prescribed by the board...”

6 6. Section 2234 of the Code states:

7 “The board shall take action against any licensee who is charged with unprofessional
8 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
9 limited to, the following:

10 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
11 violation of, or conspiring to violate any provision of this chapter.

12 “(b) Gross negligence.

13 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
14 omissions. An initial negligent act or omission followed by a separate and distinct departure from
15 the applicable standard of care shall constitute repeated negligent acts.

16 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
17 that negligent diagnosis of the patient shall constitute a single negligent act.

18 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
19 constitutes the negligent act described in paragraph (1), including, but not limited to, a
20 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
21 applicable standard of care, each departure constitutes a separate and distinct breach of the
22 standard of care.

23 “(d) Incompetence.

24 “(e) The commission of any act involving dishonesty or corruption which is substantially
25 related to the qualifications, functions, or duties of a physician and surgeon.

26 “(f) Any action or conduct which would have warranted the denial of a certificate.

27 “(g) The practice of medicine from this state into another state or country without meeting
28 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not

1 apply to this subdivision. This subdivision shall become operative upon the implementation of the
2 proposed registration program described in Section 2052.5.

3 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
4 participate in an interview by the board. This subdivision shall only apply to a certificate holder
5 who is the subject of an investigation by the board.”

6 7. Section 2266 of the Code states:

7 “The failure of a physician and surgeon to maintain adequate and accurate records relating to
8 the provision of services to their patients constitutes unprofessional conduct.”

9 10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Repeated Negligent Acts)**

12 8. Respondent is subject to disciplinary action under section 2234, subdivision (c) in that
13 he committed repeated negligent acts, by acting below the standard of care in his care and
14 treatment of two patients. The circumstances are as follows:

15 **Patient 1¹.**

16 9. Patient 1 is a 56-year-old man who was accepted into Respondent’s practice by his
17 nurse practitioner in early 2012. The patient had a history of IV drug abuse and was in a
18 methadone program, but he began seeing Respondent for his chronic back and knee pain, sciatica,
19 and hypertension. Patient 1 was consistently prescribed controlled substances, including
20 Methadone² and diazepam³, for chronic pain by Respondent, but there was no medication contract
21 for this patient until April 17, 2013.

22
23 ¹ The patients are designated by number to protect their privacy. The identities of the
24 patients are either known to Respondent or will be provided to him in a response to Request for
25 Discovery.

26 ² Methadone is a synthetic opioid medication, used for treatment of pain and/or heroin
27 addiction. It is a dangerous drug pursuant to Business and Professions Code section 4022, and a
28 Schedule II controlled substance, pursuant to Health and Safety Code section 11055, subdivision
(b)(1)(c)(9).

³ Diazepam is a benzodiazepine medication, commonly referred to as Valium, used for
treatment of anxiety. It is a dangerous drug pursuant to Business and Professions Code section
4022 and a schedule IV controlled substance pursuant to Health and Safety Code section 11057,
subdivision (d)(9).

1 10. According to his medical records, Respondent first saw Patient 1 on August 23, 2012.
2 The Patient's chief complaint was "pulled muscle in the back and complains of having a lot of
3 muscle spasms." The record indicates that the patient was "unable to do much without meds."
4 The history of present illness indicates that this patient was coming in for a follow up appointment
5 on his low back pain and for refills of his medication, which included methadone 20 mg three times
6 a day and diazepam 10 mg twice a day. The patient reported pain intensity 7/10 and that he was
7 unable to perform daily functions due to his back problems. The patient's social history indicated
8 that he was a current daily smoker. A review of systems documented a positive finding of low
9 back pain. His height was recorded as 74 inches and his weight was 333 pounds, with blood
10 pressure of 127/78.

11 11. Respondent documented his next encounter with Patient 1 on October 15, 2012. This
12 time, his height was recorded as 67 inches and his weight was 340 pounds, with blood pressure of
13 128/85. The chief complaint was back pain of 10/10 intensity, and that patient was there for a
14 refill of medications. Even though the patient was on methadone, and was previously recorded to
15 be a smoker, this time Respondent recorded his social history as "no smoking, no alcohol, no
16 drugs." Even though the patient complained of 10/10 pain intensity, Respondent recorded a
17 review of systems that was completely benign except for "joint pain," and all aspects of the
18 physical examination were noted as "normal." The patient's pain medications were refilled, with
19 no change in dosage and documentation of any plan to solve the patient's pain.

20 12. Respondent documented his next encounter with Patient 1 two weeks later, on
21 October 29, 2012. The history of present illness indicates "Patient present ot [sic] the office visit
22 b/c severe back pain 8/10 was a heavy drug user in the past patient was taking methadone by
23 gointo [sic] a methadone clinic before becoming my patient." However, the patient's social history
24 was recorded as "no Smoking, No Alcohol, No drugs." On this visit, the patient was recorded to
25 be 76 inches tall and weighing 340 pounds. No review of systems was documented. Physical
26 exam was positive for "l4-l5 paraspinal tendernezz." [sic.] The patient's pain medications were
27 refilled, with no change in dosage, nor documentation of any plan to solve the patient's pain.
28

1 13. Respondent documented his next encounter with Patient 1 on November 30, 2012.
2 Respondent documented that Patient 1 presented with complaints of knee pain, low back pain for
3 more than one year. Respondent described that Patient 1 "has been on methadone to control the
4 pain, and has intermittent irritation and sometimes out of control his temper. [sic] No CP and
5 SOB." The patient was taking methadone and diazepam, and Respondent's physical exam
6 described a restriction of the lumbar spine. The patient's pain medications were refilled, with no
7 change in dosage nor documentation of any plan to solve the patient's pain.

8 14. On subsequent visits, Patient 1 reported his pain intensity to be 7/10 knee and 8/10
9 back on January 25, 2013; 8/10 on July 19, 2013; and 8/10 on November 6, 2013. On each of
10 these visits, the same pain medications were refilled with no changes in dosage. All notes from
11 November 6, 2013, through November 10, 2014, lack documentation of a physical examination.

12 15. When Respondent saw Patient 1 on August 13, 2014, the chief complaint included "Pt
13 states pain meds are not working as good." This same chief complaint is copied forward to the
14 next visit on September 12, 2014, however, at both of these encounters Respondent's care plan is
15 to "continue taking medication as directed."

16 16. On October 10, 2014, Respondent documented that the patient was "given instruction
17 to put warm compress for at least 15 minutes, and educated on proper body mechanics." This
18 phrase is copied forward to the next visit on November 10, 2014.

19 17. On March 4, 2015, the patient was seen by a Nurse Practitioner, who documented
20 Patient 1's history of present illness as: "Current medication regimen works well with the patient."
21 This is repeated in the charting for the April 1, 2015, visit which was with the same Nurse
22 Practitioner. On June 4, 2015, Patient 1 returned to being seen by Respondent, whose history of
23 present illness states, "Patient present to the office for medication refill. No other concern. Current
24 medication regimen works well for the patient. Report not taking any medication recently." The
25 patient's medications, Methadone and diazepam were refilled, and the patient "was given
26 instructions for proper use of medication in a timely manner." Patient 1 returned to see
27 Respondent on August 3, 2015. Respondent documented that the patient's back pain had returned
28 to 4/10 intensity. The following visit, on December 15, 2015, the patient's history of present

1 illness described complaints of constant elbow, lower back and knee pain of 7/10 intensity.

2 Through all of this, no changes were made in the treatment plan.

3 18. Patient 1 returned to see Respondent on January 11, 2016, complaining of pain on the
4 left side of his face. Respondent documented a care plan that indicates: "Rx sent by E-
5 prescription. Counseled patient regarding diagnosis and need to follow up." Patient was
6 instructed to follow up with a dentist and to return in two weeks. Patient 1 then returned to
7 Respondent's office on January 20, 2016, for follow up, and the chief complaint states that "he
8 thinks he might need a higher dose of medication." Respondent documented that the patient rated
9 the pain at 8.5/10 in the history of present illness, and indicated that he could not lie on his back or
10 stomach, and that it was hard for him to get out of bed. Respondent documented in his care plan a
11 prescription for Soma⁴ and referral to pain management. When the patient returned, almost a half
12 a year later, on June 30, 2016, he requested a refill on Soma for increasing back stiffness as well as
13 a change in blood pressure medications. There is no indication in the record as to whether Patient
14 1 was ever seen by pain management, nor is there documentation of him continuing to receive
15 prescriptions for methadone. When asked about this in his interview, Respondent stated that the
16 patient had obtained new insurance and was therefore able to resume treatment at the methadone
17 clinic.

18 19. Subsequent encounters, on July 26, 2016, and August 23, 2016, document back pain
19 levels of 8/10 and 9/10 respectively, but Respondent's only documented treatment plans are for
20 Soma refills as well as the standard instructions about warm compress and body mechanics.

21 20. During his treatment of Patient 1, Respondent departed from the standard of care as
22 follows:

- 23 a. Respondent's failure to formulate a well defined treatment plan for Patient 1 was a
24 departure from the standard of care.

25
26 ⁴ Soma is a brand name for carisoprodol, a muscle relaxant generally used to treat muscle
27 spasms. It is a dangerous drug pursuant to Business and Professions Code section 4022, and a
28 Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision
(d).

1 b. Respondent's failure to obtain and document informed consent for treatment of
2 chronic pain with controlled substances, prior to April 17, 2017, was a departure from
3 the standard of care.

4 c. Respondent's failure to refer Patient 1 to pain management earlier than he did was a
5 departure from the standard of care.

6 **Patient 2.**

7 21. Patient 2 began seeing Respondent in September 2011, however the earliest progress
8 note in the records Respondent provided to the Medical Board is dated September 18, 2012. In
9 that note, the patient's list of current medications included ProAir,⁵ Soma, Spiriva,⁶ Ultram,⁷
10 Vicodin ES,⁸ and Xanax.⁹ Respondent documented Patient 2's medical history that included low
11 back pain and Chronic Obstructive Pulmonary Disease (COPD). The chief complaint was
12 documented as many months of bilateral shoulder pain and back pain. No physical examination or
13 plan was documented, but all medications other than the Ultram and Spiriva were refilled by
14 Respondent.

15 22. At his next visit, on October 2, 2012, Patient 2 indicated that the intensity of his
16 shoulder and back pain were 8/10 for several years. The Chief complaint was cough of 1 months'
17 duration, and that the patient was there for his medication refills. Again, no exam or plan is
18 documented, and refills were issued for ProAir, Soma, Vicodin ES, and Xanax. In addition, Motrin
19 800 mg tablets were prescribed, as well as promethazine-codeine syrup.¹⁰

20 ⁵ ProAir is a rescue inhaler containing albuterol, used to treat acute asthma attacks.

21 ⁶ Spiriva is an inhaler medication, used to treat asthma.

22 ⁷ Ultram is a brand name for tramadol, an opioid analgesic. It is a dangerous drug pursuant
23 to Business and Professions Code section 4022, and a Schedule IV controlled substance pursuant
24 to Health and Safety Code section 11057, subdivision (d).

23 ⁸ Vicodin ES is a combination of hydrocodone and acetaminophen. Hydrocodone is an
24 opioid analgesic. It is a dangerous drug pursuant to Business and Professions Code section 4022,
25 and a Schedule II controlled substance pursuant to Health and Safety Code section 11055,
26 subdivision (b)(1)(I).

25 ⁹ Xanax is a brand name of alprazolam, a benzodiazepine anxiety medication. It is a
26 dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule IV
27 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d).

26 ¹⁰ Codeine is a narcotic, and Promethazine with codeine is a dangerous drug pursuant to
27 Business and Professions Code section 4022, and a Schedule III controlled substance pursuant to
28 Health and Safety Code section 11056, subdivision (e)(2).

1 23. Throughout 2013 and into 2014, Patient 2 presented to Respondent's office with
2 complaints of pain in his back, shoulders, and/or knees, and was given refills for his Vicodin ES
3 and Soma, in combination with Xanax, together with Promethazine with codeine for occasional
4 cough. Prolonged treatment of chronic pain with opiate therapy involves many risks and side
5 effects, including a risk of addiction. During the encounters with Patient 2 throughout 2013 and
6 into 2014, Respondent did not perform and/or document any physical examinations of Patient 2,
7 and did not obtain and/or document this patient's prior pain treatment, substance abuse history or
8 psychological function prior to initiation of opiate therapy. Nor did Respondent ever document
9 the intensity of Patient 2's pain, so there is no way to assess the effectiveness of Respondent's
10 treatment. Respondent did not discuss and/or document a discussion of informed consent for
11 treatment of Patient 2's chronic pain with opiate medication. Respondent never considered or
12 documented a defined treatment plan, and never considered or documented a consideration to
13 refer Patient 2 to a pain management specialist. Respondent simply refilled Patient 2's medications
14 during each office visit.

15 24. Patient 2 presented to Respondent on March 14, 2014. Respondent obtained an x-ray
16 of the left shoulder on March 14, 2014 that showed mild degenerative changes at the
17 acromioclavicular joint. On the same day, an x-ray of the lumbar spine was obtained which
18 revealed a narrow L5-S1 disc space and degenerative changes at all levels. The results of these
19 imaging studies are not noted or discussed anywhere in Respondent's medical record for
20 Patient 2. On March 14, 2014, Vicodin ES is replaced with Norco¹¹ 10-325 mg, but otherwise the
21 pattern, as alleged above, continues through the final progress note in the chart, which is dated
22 February 19, 2015.

23 25. During his treatment of Patient 2, Respondent departed from the standard of care as
24 follows:

25
26
27 ¹¹ Norco is a trade name for combination of hydrocodone and acetaminophen. It is a
28 dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule II
controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I).

- 1 d. Respondent's failure to perform and/or document a physical examination of Patient 2
2 was a departure from the standard of care.
- 3 e. Respondent's failure to formulate a well defined treatment plan for Patient 2 was a
4 departure from the standard of care.
- 5 f. Respondent's failure to obtain and document informed consent for treatment of
6 Patient 2's chronic pain with controlled substances, prior to November 20, 2013, was
7 a departure from the standard of care.
- 8 g. During his interview with the Board's investigators Respondent repeated several
9 times that Patient 2 was a "difficult patient" who had underlying psychiatric issues,
10 which Respondent did not document in his records. Respondent's failure to refer this
11 difficult patient to a pain management specialist was a departure from the standard of
12 care.
- 13 h. Respondent's manner of keeping records, omitting important aspects of Patient 2's
14 presentation and failure to document physical examinations, was a departure from the
15 standard of care.

16
17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Inadequate Record Keeping)**

19 26. Respondent is subject to disciplinary action under Code section 2266 in that he failed
20 to keep adequate and accurate medical records in the care and treatment of two patients. The
21 circumstances are as follows:

22 27. The allegations set forth in paragraphs 9 through 25 are incorporated herein by
23 reference.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Failure or Refusal to Provide Certified Medical Records**

26 **Pursuant to Patient Release)**

27 28. Respondent is subject to disciplinary action under sections 2234, subdivision (a), and
28 2225.5, subdivision (a)(1), in that Respondent failed or refused to provide certified medical

1 records of Patient 1 to the Board upon a request that was accompanied by the patient's
2 authorization for release of medical records. The circumstances are as follows:

3 29. On or about September 21, 2016, pursuant to a request from the Board's investigator,
4 Patient 1 signed an Authorization for Release of Patient 1's Medical Information, maintained by
5 Respondent, to the Board. Shortly thereafter, the Board's investigator requested that Respondent
6 provide a certified copy of Patient 1's medical records. The request was accompanied by a blank
7 certification form and a copy of the Authorization signed by Patient 1. On or about October 13,
8 2016, Respondent provided a copy of Patient 1's medical records to the Board's investigator,
9 however the certification form accompanying Patient 1's records was not executed. During his
10 interview with the Board, Respondent stated that he had additional medical records for Patient 1.
11 He was requested to provide them. Subsequently, between January 26, 2017 and July 17, 2018,
12 the Board's investigator repeatedly contacted Respondent and his office, seeking to obtain the
13 records Respondent referred to, and/or to obtain a signed certification of Patient 1's records that
14 Respondent already provided. Respondent ignored all of the investigator's attempts in this
15 regard. As of the date of this Accusation, Respondent has not provided the additional medical
16 records he referred to during his interview, and did not sign a certification of Patient 1's records
17 that he provided previously.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Medical Board of California issue a decision:

21 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 41589, issued
22 to Nagasamudra S. Ashok, M.D.;

23 2. Revoking, suspending or denying approval of Nagasamudra S. Ashok, M.D.'s
24 authority to supervise physician assistants and advanced practice nurses;

25 3. Ordering Nagasamudra S. Ashok, M.D., if placed on probation, to pay the Board the
26 costs of probation monitoring;

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4. Ordering Respondent to pay a civil penalty in an amount not to exceed \$10,000; and
5. Taking such other and further action as deemed necessary and proper.

DATED: September 6, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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